

THE MINUTES OF THE REGULAR CITY COUNCIL MEETING HELD
MONDAY, SEPTEMBER 29, 2003 AT 1:30 P.M.

The Meeting was called to order at 1:30 p.m. Present: Council Chairperson Camp; Council Members: Cook, McRoy, Newman, Svoboda, Werner; Teresa Meier, Deputy City Clerk; Absent: Friendt.

Council Chair asked all present to stand and recite the Pledge of Allegiance and reflect for a moment of silent meditation.

READING OF THE MINUTES

NEWMAN Having been appointed to read the minutes of the City Council proceedings of September 22, 2003, reported having done so, found same correct.

Seconded by Svoboda & carried by the following vote: AYES: Camp, Cook, McRoy, Newman, Svoboda, Werner; NAYS: None; ABSENT: Friendt.

PUBLIC HEARING

APPEAL OF THE DENIAL OF ISSUANCE OF A PEDDLER PERMIT TO CARISA RISOR BY POLICE DEPARTMENT. (9/29/03 - P.H. Con't. To 9/29/03) - Applicant failed to appear. CLERK requested a motion:

COOK Moved to uphold the denial.

Seconded by Svoboda & carried by the following vote: AYES: Camp, Cook, McRoy, Newman, Svoboda, Werner; NAYS: None; ABSENT: Friendt.

MANAGER APPLICATION OF KYMBERLY DILLON FOR CEC ENTERTAINMENT INC. DBA CHUCK E. CHEESE'S AT 221 N. 66TH STREET. - Kymberly Dillon, 228 S. 19th Street, Beatrice, came forward and took the oath. Councilman Svoboda asked how long she has been the general manager of this location and if she had taken the Responsible Hospitality Class. Ms. Dillon indicated she had been the manager since March of this year and she is scheduled to take the class next month.

This matter was taken under advisement.

CHANGE OF ZONE 3414 - APPLICATION OF JOHN, JANICE, AND GARY VERMAAS FOR A CHANGE OF ZONE FROM P PUBLIC USE DISTRICT TO O-3 OFFICE PARK DISTRICT ON PROPERTY GENERALLY LOCATED NORTHEAST OF THE INTERSECTION OF PIONEERS BOULEVARD AND HIGHWAY 2. (In connection w/03R-250)

USE PERMIT 152 - APPLICATION OF JOHN, JANICE, AND GARY VERMAAS TO DEVELOP 49,900 SQUARE FEET OF MEDICAL, FINANCIAL, AND OFFICE FLOOR SPACE, WITH WAIVERS TO THE REQUIRED FRONT YARD SETBACK ALONG S. 13TH STREET, SIDEWALK ALONG HIGHWAY 2 SOUTH OF PIONEERS BOULEVARD, TO ELIMINATE THE CROWN FROM THE PAVEMENT CROSS-SECTION, PARKING LOT SCREENING ALONG S. 13TH STREET, AND SANITARY SEWER FLOW OPPOSITE STREET GRADES, ON PROPERTY GENERALLY LOCATED NORTHEAST OF THE INTERSECTION OF PIONEERS BOULEVARD AND HIGHWAY 2. (In connection w/03R-250) - Brian Carstens, 601 Old Cheney Rd., Suite C, came forward representing the Vermaas'. We are requesting a setback waiver along 13th Street, because the buildings are 12' to 16' lower than the adjacent grade. Since there is no ideal place to put the sidewalks along 13th Street, we have agreed to put them in along Highway 2 and contribute money to the east side of 13th Street for a future bike trail. We are requesting a waiver of sidewalks south of Pioneers along Highway 2 because they would lead no where. We are also requesting waiver of parking lot screening and the sanitary sewer flowing the opposite of the street grade. Council Chair Camp asked if there would still be landscaping along Highway 2. Mr. Carstens stated they would be putting in screening on Highway 2 and at the point of the property as well. The street trees will still be along 13th street but we would like to eliminate the shrubbery. Mr. Camp asked if there was a concern years ago about environmental hazards. Mr. Carstens stated they have been working with the State on that and those issues have been addressed. Councilman Werner asked where potential pedestrians taking the bus, would actually have a place to enter this location. Mr. Carstens said they would probably have to go down Calvert Street and along Highway 2 and back.

This matter was taken under advisement.

AMENDING CHAPTER 8.20 OF THE LINCOLN MUNICIPAL CODE TO ADOPT CHANGES TO CONFORM THE LINCOLN FOOD CODE TO NEW STATE FOOD CODE - Scott Holmes,

Manager of Environmental Health and Joyce Jensen, Environmental Health Supervisor of the Lincoln-Lancaster Health Dept. came forward to explain that this ordinance is adopting the Federal model food code and has been approved by the Food Advisory Committee. Councilman Cook asked about the deletion of the definition of push carts. Ms. Jensen explained that was simply a glitch at the state level. We have in fact actually adopted the state's definition of a pushcart.

This matter was taken under advisement.

ACCEPTING THE REPORT OF NEW & PENDING CLAIMS AGAINST THE CITY & APPROVING DISPOSITION OF CLAIMS SET FORTH THEREIN FOR THE PERIOD OF AUGUST 1 - 15, 2003. (9/8/03 - Claim of Stephanie Byrd Placed on Pending & Con't. P. H. in 2 Weeks to 9/22/03) (9/22/03 - P.H. Con't to 9/29/03) - Mike Merwick, Director of Building & Safety Dept., came forward to answer questions. Councilwoman Newman asked if this apartment can be legally occupied. Mr. Merwick informed Council that there was never any permit taken out to make the residence into a duplex. Councilwoman Newman asked if Ms. Byrd had any recourse and could she potentially sue the landlord for the damages she incurred.

Dana Roper, City Attorney, came forward to respond to Ms. Newman's questions and stated that it was a possibility.

Councilwoman McRoy asked what steps needed to be taken to prevent this from being rented again. Mr. Merwick advised that a letter had been sent to the property owner and that the department will be watching to see if there are any future renters.

Councilman Svoboda asked if the property owner had violated a current city ordinance. Mr. Merwick stated he believed he could have an apartment in R-2 zoning, but he did so without taking out permits. We would have to research this to see if this is a violation.

This matter was taken under advisement.

ASSESSING PREMISE CLEARANCE COSTS ASSOCIATED WITH THE CLEARING OF PUBLIC NUISANCES BY THE HEALTH DEPARTMENT TO THE FOLLOWING BENEFITTED PROPERTIES: 5053 HOLDREGE STREET AND 444 N. 27TH STREET - Scott Holmes, Environmental Public Health Manager, came forward to explain about the two properties that had to be cleaned up.

This matter was taken under advisement.

AUTHORIZING SUBMITTAL OF A GRANT APPLICATION TO THE TRANSPORTATION ENHANCEMENT PROGRAM FOR THE CONSTRUCTION OF THE ANTELOPE CREEK TRAIL PHASE 1 FROM THE DOG RUN IN HOLMES PARK TO APPROXIMATELY 86TH AND OLD CHENEY ROAD - Terry Genrich, Lincoln Parks & Recreation, came forward and explained that the funds for this project are in the current CIP budget.

This matter was taken under advisement.

RESOLUTION OF SUPPORT OF A LANCASTER COUNTY GRANT SUBMITTAL TO THE TRANSPORTATION ENHANCEMENT PROGRAM FOR THE CONSTRUCTION OF THE JAMAICA NORTH TRAIL LOCATED ON THE ABANDONED UNION PACIFIC RAILROAD FROM ½ MILE SOUTH OF SALTILLO ROAD TO J STREET AND THAT THE CITY WILL PROVIDE ON-GOING MAINTENANCE FOR THE TRAIL - Terry Genrich, Lincoln Parks & Recreation, came forward to explain this project. Councilwoman McRoy asked if there were any city funds needed for this project. Mr. Genrich stated this is money from the County and other funds will be raised by various groups.

This matter was taken under advisement.

ORDERING ORNAMENTAL LIGHTING DISTRICT NO. 286 CONSTRUCTED, BEING SOUTH 20TH STREET TO SOUTH 27TH STREET, VAN DORN STREET TO HIGH STREET. - Nicole Fleck-Tooze, Public Works Dept., came forward to give a brief overview. This district came forward and was approved by the City Council in July of 2002 after an informal petition was received. Once the district was created, those interested individuals initiated the signing of formal petitions and the city has received petitions representing the majority of front feet abutting the streets within this district. Public Works and Utilities Dept. is neutral on this matter. The Board of Equalization will determine the costs to the property owners. We have provided a recommended method, the unit method and the estimated cost per unit is \$1,040. The total cost of the district is \$234,000 and there are a total of 235 units. Lincoln Electric System will prepare the design.

Council Chair Camp asked Ms. Fleck-Tooze to explain the unit method of assessment. Ms. Fleck-Tooze replied a unit is based upon what the average lot size is in general within the district, which is between 50-55' in width and 130' in depth.

Elmer Cole, Development Services, came forward to answer questions. Council Chair Camp asked how many units would be east of 24th Street, and how many west and how many units for the Country Club's total number. Mr. Cole replied that the Country Club's total number of units is 52 and 30 units to the 24th Street west Woodsdale North, with the balance of that to the east. Councilman Werner asked if each unit has a vote, or each property owner. Ms. Fleck-Tooze responded the petitions are based upon the front footage. Mr. Werner asked what percent is in favor. Mr. Cole stated that 8,089 footage were in favor or 62% of the majority. He indicated that there were 147 notices sent out. Councilman Werner asked if people have an opportunity to take back their vote and change it, prior to the resolution?

Dana Roper, City Attorney, came forward to answer questions. He stated once the resolution is adopted by Council, they cannot take back their votes. Councilman Werner asked if between now and next week, if an individual wanted to change their vote. Mr. Roper said until it is adopted, they could have an opportunity to change their vote. Mr. Roper reminded council that the only decision they are making is whether to order the district to be constructed. The assessment and methodology of the assessment will be at the Board of Equalization.

Discussion ensued among Council members regarding the footage and the assessment.

Councilwoman McRoy asked Mr. Cole if a property owner could be assigned more than one unit. Mr. Cole indicated there are variances between 27th Street to High Street, where there are a couple that the home is built over 2 lots. Ms. McRoy asked if people come out better by using the unit method. Mr. Cole indicated the unit method is the fairest way to go.

Bob Routh, 3120 South 24th Street, came forward in favor. He stated he was appearing on behalf of the Woodsdale Group. He gave the Council a brief overview of what had happened to date with the petitions submitted.

Lynn Senkbeil, 2905 So. 27th Street, came forward in favor. Councilwoman McRoy asked Mr. Senkbeil if it would be better to petition LES to put up regular lights, rather than ornamental lights. Ms. McRoy commented she thought the LES lights are brighter. Mr. Senkbeil stated the LES lights are so high, that they are above the tree line and we have lights around the neighborhood now that don't serve the purpose.

Craig Groat, 4935 Huntington Street, came forward in favor.

Lou Leviticus, 3002 So. 26th Street, came forward in opposition.

Roger Bacon, representing the Lincoln County Club, came forward in opposition.

Mike Grieger, 2645 Van Dorn Street, came forward in opposition. Council members checked the map and had Mr. Cole confirm, that Mr. Grieger's property would not be affected by this district.

Richard Peterson, Attorney, 130 S. 13th Street, came forward representing Duane and Phyllis Acklee, 2200 Woodsdale Blvd., Keith Heckman and Janet Danielson, 2130 Woodsdale Blvd., and Clay and Bess Smith, 2310 Woodsdale Blvd., came forward in opposition and asked that the Council table this item for 90 days. Council Chair Camp clarified that there will be one additional week for public hearing and there will be no vote on this item this evening. Councilman Werner asked if his clients voted in favor or against. Mr. Peterson said they did not sign the petition. Councilman Werner and Councilman Cook both asked if the design of the lights was a concern. Mr. Peterson agreed that was a primary issue and that there were three issues: the height of the poles, whether they are wood or metal, and the number of poles and spacing.

Eleanor Ganz, 3121 So. 27th Street, came forward in opposition. Council Chair Camp asked Mr. Cole to return and look up the lots to see what Ms. Ganz proposed assessment would be. He reported that she has one unit. Councilwoman McRoy asked Mr. Cole to put the map up on the screen so the viewing public could see what area is affected. Mr. Cole then outlined the area showing the exact boundaries. Council Chair Camp stated that as you go along Van Dorn Street there are areas notched out, so part of 25th from Van Dorn to Lafayette is also notched out. Mr. Cole stated that 25th Street is served by the ornamental lights, and they are the same as what Lincoln Electric System is proposing for this area. Councilman Werner asked if Mr. Cole could answer Mr. Peterson's question about the change in residence and having one signed petition and then that individual has moved out of the neighborhood. Mr. Cole stated that title companies that worked closely with the real estate agents and those that are selling on their own, work with us in Engineering by submitting a form, on which they asked for any

outstanding assessments that are either proposed but not yet assessed. We review everything we get, but during the course of the year, I think I had approximately 28 changes in addresses or ownerships or a legal change for that neighborhood.

Dean Clawson, 2573 Van Dorn Street, came forward in opposition.

Mike Yoakum, 433 W. Saunders Street, came forward in a neutral position.

Mr. Routh returned for rebuttal. Mr. Routh wanted to clarify that there are two lights on 25th Street and those are very similar to what the proposed lights would look like. Councilman Cook commented that the lights that are already in the neighborhood are similar, so the height would be about 14' and a similar kind of pole, you are just not allowed to pick the manufacturer ahead of the bidding. Mr. Routh agreed.

Mr. Cole returned with the submittal from LES that shows a total of 49 lights. He indicated that they will not remove the existing lights until everything is installed. He suggested someone from LES will be available at next week's council meeting.

Mr. Routh indicated that they had with digital photography superimposed those lamp posts on photographs of the Woodsdale Neighborhood and it has been submitted to every neighbor in the area.

Mr. Leviticus returned to say that he had not seen any photographs. Mr. Routh confirmed that and said he would make one available.

This matter was taken under advisement.

Councilman Svoboda acknowledged several members of Boy Scout Troop #63 sponsored by Southminster United Methodist Church.

APPROVING A CONTRACT FOR SERVICES BETWEEN THE CITY AND CORNHUSKER PLACE FOR A THREE-YEAR TERM TO PROVIDE SERVICES OF CHEMICAL TESTING OF BREATH SAMPLES;

APPROVING A CONTRACT FOR SERVICES BETWEEN THE CITY AND CORNHUSKER PLACE FOR A THREE-YEAR TERM TO PROVIDE PROTECTIVE CUSTODY SERVICES - Jim Baird, Executive Director of Cornhusker Place, came forward to explain the continuation of these contracts.

This matter was taken under advisement.

BREAK - 4:40 P.M.

RECONVENED - 4:55 P.M.

MISCELLANEOUS BUSINESS

Craig Groat, 4935 Huntington Ave., came forward to note that the sidewalks in his neighborhood have not been repaired and he had reported them over two years ago. He had learned that according to the six year sidewalk reconstruction schedule this area is not slated to be repaired until 2008-2010.

Mike Morossin, 2055 S Street, came forward to read from an article in this week's newspaper about teenagers and young adults being unconcerned about politics in general.

Scott Crippin, 1249 Butler, came forward to recant his comments he had made about Mr. Vince Mejer at the previous Council meeting.

Mark Yoakum, 433 W. Saunders, came forward to comment on the skateboard park located on 33rd Street. He was dismayed at the lack of youths who were not wearing protective helmets or elbow/knee pads.

These matters were taken under advisement.

**** END OF PUBLIC HEARING ****

COUNCIL ACTION

LIQUOR RESOLUTIONS

MANAGER APPLICATION OF KYMBERLY DILLON FOR CEC ENTERTAINMENT INC. DBA CHUCK E. CHEESE'S AT 221 N. 66TH STREET - DEPUTY CLERK read the following resolution, introduced by Ken Svoboda, who moved its adoption for

approval:

A-82344 WHEREAS, CEC Entertainment Inc. dba Chuck E. Cheese's located at 221 N. 66th Street, Lincoln, Nebraska has been approved for a Retail Class "J" liquor license, and now requests that Kimberley Dillon be named manager;

WHEREAS, Kimberley Dillon appears to be a fit and proper person to manage said business.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Lincoln, Nebraska:

That after hearing duly had as required by law, consideration of the facts of this application, the Nebraska Liquor Control Act, and the pertinent City ordinances, the City Council recommends that Kimberley Dillon be approved as manager of this business for said licensee. The City Clerk is directed to transmit a copy of this resolution to the Nebraska Liquor Control Commission.

Introduced by Ken Svoboda

Seconded by Newman & carried by the following vote: AYES: Camp, Cook, McRoy, Newman, Svoboda, Werner; NAYS: None; ABSENT: Friendt.

ORDINANCES - 2ND READING

CHANGE OF ZONE 3414 - APPLICATION OF JOHN, JANICE, AND GARY VERMAAS FOR A CHANGE OF ZONE FROM P PUBLIC USE DISTRICT TO O-3 OFFICE PARK DISTRICT ON PROPERTY GENERALLY LOCATED NORTHEAST OF THE INTERSECTION OF PIONEERS BOULEVARD AND HIGHWAY 2. (In connection w/03R-250) - CLERK read the following ordinance, introduced by Glenn Friendt, for Change of Zone 3414, Application of John, Janice and Gary Vermaas for a change of zone from P Public Use District to O-3 Office Park District on Property generally located northeast of the intersection of Pioneers Boulevard and Highway 2, the second time.

AMENDING CHAPTER 8.20 OF THE LINCOLN MUNICIPAL CODE TO ADOPT CHANGES TO CONFORM THE LINCOLN FOOD CODE TO NEW STATE FOOD CODE - CLERK read the following ordinance, introduced by Glenn Friendt, amending Chapter 8.20 of the Lincoln Municipal Code to adopt changes to conform the Lincoln Food Code to new State Food Code, the second time.

APPROVING A THREE-YEAR/6,000 HOUR LEASE AGREEMENT BETWEEN THE CITY AND CATERPILLAR FINANCIAL SERVICES CORPORATION FOR A 627G CATERPILLAR SCRAPER - CLERK read the following ordinance, introduced by Glenn Friendt, approving a three-year/6,000 hour lease agreement between the City and Caterpillar Financial Services Corporation for a 627G caterpillar scraper, the second time.

RESOLUTIONS

APPLICATION OF ST. JOSEPH CATHOLIC CHURCH/SCHOOL OF LINCOLN TO CONDUCT A LOTTERY WITHIN THE CITY OF LINCOLN FROM OCTOBER 1, 2003 THROUGH NOVEMBER 16, 2003 - DEPUTY CLERK read the following resolution, introduced by Annette McRoy, who moved its adoption:

A-82345 WHEREAS, St. Joseph Catholic Church and School has made application for a permit to conduct a lottery in the City of Lincoln pursuant to Chapter 9.32 of the Lincoln Municipal Code; and

WHEREAS, said application complies with all of the requirements of Section 9.32.030 of the Lincoln Municipal Code.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Lincoln, Nebraska:

That, after public hearing duly had as required by Section 9.32.050 of the Lincoln Municipal Code, the City Council does hereby grant a permit to St. Joseph Catholic Church and School to conduct a lottery in the City of Lincoln in accordance with the application filed by Fr. Liam Barr. The City Clerk is directed to issue a permit upon the payment by the applicant of the required fee, said permit to be valid only for the specific lotteries described in said application and only for a period of one year from the date of approval of this resolution. Said permit shall be subject to all of the conditions and requirements of Chapter 9.32 of the Lincoln Municipal Code.

BE IT FURTHER RESOLVED that pursuant to Section 9.32.080 of the

Lincoln Municipal Code, a tax of 5% is imposed upon the gross proceeds received from the sale of lottery chances or tickets within the City of Lincoln, which tax shall be due no later than sixty (60) days after the conclusion of each lottery to be conducted hereunder, and if unpaid at that time, shall thereafter be delinquent.

Introduced by Annette McRoy

Seconded by Cook & carried by the following vote: AYES: Camp, Cook, McRoy, Newman, Svoboda, Werner; NAYS: None; ABSENT: Friendt.

APPLICATION OF PIUS X HIGH SCHOOL BOOSTER CLUB TO CONDUCT A LOTTERY WITHIN THE CITY OF LINCOLN FROM JANUARY 24, 2004 THROUGH APRIL 24, 2004 - DEPUTY CLERK read the following resolution, introduced by Annette McRoy, who moved its adoption:

A-82346 WHEREAS, Pius X High School Booster Club - BOLT has made application for a permit to conduct a lottery in the City of Lincoln pursuant to Chapter 9.32 of the Lincoln Municipal Code; and
WHEREAS, said application complies with all of the requirements of Section 9.32.030 of the Lincoln Municipal Code.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Lincoln, Nebraska:

That, after public hearing duly had as required by Section 9.32.050 of the Lincoln Municipal Code, the City Council does hereby grant a permit to Pius X High School Booster Club - BOLT to conduct a lottery in the City of Lincoln in accordance with the application filed by Deb Schultz. The City Clerk is directed to issue a permit upon the payment by the applicant of the required fee, said permit to be valid only for the specific lotteries described in said application and only for a period of one year from the date of approval of this resolution. Said permit shall be subject to all of the conditions and requirements of Chapter 9.32 of the Lincoln Municipal Code.

BE IT FURTHER RESOLVED that pursuant to Section 9.32.080 of the Lincoln Municipal Code, a tax of 5% is imposed upon the gross proceeds received from the sale of lottery chances or tickets within the City of Lincoln, which tax shall be due no later than sixty (60) days after the conclusion of each lottery to be conducted hereunder, and if unpaid at that time, shall thereafter be delinquent.

Introduced by Annette McRoy

Seconded by Newman & carried by the following vote: AYES: Camp, Cook, McRoy, Newman, Svoboda, Werner; NAYS: None; ABSENT: Friendt.

ACCEPTING THE REPORT OF NEW & PENDING CLAIMS AGAINST THE CITY & APPROVING DISPOSITION OF CLAIMS SET FORTH THEREIN FOR THE PERIOD OF AUGUST 1 - 15, 2003. (9/8/03 - Claim of Stephanie Byrd Placed on Pending & Con't. P. H. in 2 Weeks to 9/22/03) (9/22/03 - P.H. Con't to 9/29/03) - DEPUTY CLERK read the following resolution, introduced by Annette McRoy, who moved its adoption:

A-82347 BE IT RESOLVED by the City Council of the City of Lincoln, Nebraska:

That the claims listed in the attached report, marked as Exhibit "A", dated August 18, 2003, of various new and pending tort claims filed against the City of Lincoln with the Office of the City Attorney or the Office of the City Clerk, as well as claims which have been disposed of, are hereby received as required by Neb. Rev. Stat. § 13-905 (Reissue 1997). The dispositions of claims by the Office of the City Attorney, as shown by the attached report, are hereby approved:

<u>DENIED</u>	<u>ALLOWED OR SETTLED</u>
Stephanie Byrd	\$10,270.00

The City Attorney is hereby directed to mail to the various claimants listed herein a copy of this resolution which shows the final disposition of their claim.

Introduced by Annette McRoy

Seconded by Svoboda & carried by the following vote: AYES: Camp, Cook, McRoy, Newman, Svoboda, Werner; NAYS: None; ABSENT: None.

USE PERMIT 152 - APPLICATION OF JOHN, JANICE, AND GARY VERMAAS TO DEVELOP 49,900 SQUARE FEET OF MEDICAL, FINANCIAL, AND OFFICE FLOOR SPACE, WITH WAIVERS TO THE REQUIRED FRONT YARD SETBACK ALONG S. 13TH STREET, SIDEWALK ALONG HIGHWAY 2 SOUTH OF PIONEERS BOULEVARD, TO ELIMINATE THE CROWN FROM THE PAVEMENT CROSS-SECTION, PARKING LOT SCREENING ALONG S. 13TH STREET, AND SANITARY SEWER FLOW OPPOSITE STREET GRADES, ON PROPERTY

GENERALLY LOCATED NORTHEAST OF THE INTERSECTION OF PIONEERS BOULEVARD AND HIGHWAY 2. (In connection w/03-148) - PRIOR TO READING:
COOK Moved to delay action for one week to 10/6/03.
Seconded by Svoboda & carried by the following vote: AYES: Camp, Cook, McRoy, Newman, Svoboda, Werner; NAYS: None; ABSENT: Friendt.

ASSESSING PREMISE CLEARANCE COSTS ASSOCIATED WITH THE CLEARING OF PUBLIC NUISANCES BY THE HEALTH DEPARTMENT TO THE FOLLOWING BENEFITTED PROPERTIES: 5053 HOLDREGE STREET AND 444 N. 27TH STREET - DEPUTY CLERK read the following resolution, introduced by Annette McRoy, who moved its adoption:

A-82348 BE IT RESOLVED by the City Council of the City of Lincoln, Nebraska that:

Pursuant to Section 8.26.040 of the Lincoln Municipal Code, the premise clearance costs as shown on the list which is attached hereto, marked Exhibit "A" and made a part hereof by reference, are hereby assessed against the property set opposite each amount as shown thereon. Said assessments shall be delinquent from and after December 1, 2003 and draw interest as provided for in Neb. Rev. Stat. § 45-104.1 for assessments.

Introduced by Annette McRoy

Seconded by Svoboda & carried by the following vote: AYES: Camp, Cook, McRoy, Newman, Svoboda, Werner; NAYS: None; ABSENT: Friendt.

AUTHORIZING SUBMITTAL OF A GRANT APPLICATION TO THE TRANSPORTATION ENHANCEMENT PROGRAM FOR THE CONSTRUCTION OF THE ANTELOPE CREEK TRAIL PHASE 1 FROM THE DOG RUN IN HOLMES PARK TO APPROXIMATELY 86TH AND OLD CHENEY ROAD - DEPUTY CLERK read the following resolution, introduced by Annette McRoy, who moved its adoption:

A-82349 WHEREAS, the City of Lincoln through its Parks and Recreation Department intends to apply to the State of Nebraska Department of Roads for financial assistance from the Transportation Enhancement Program for the purpose of constructing the Antelope Creek Trail, a 1.91 mile pedestrian/bicycle trail that will connect with the Billy Wolff Trail in the Dog Run at Holmes Lake to approximately 86th and Old Cheney Road in Lancaster County, Nebraska. The project will include the construction of a ten-foot wide concrete pathway and associated landscape and safety features on publicly owned property.

WHEREAS, the total cost of the project is approximately \$480,164. The grant to fund approximately 73% of total construction cost is being requested through the Transportation Enhancement Program. The City of Lincoln will provide \$90,000 in previously identified funds in the CIP budget for construction as well as an additional \$40,000 that is being provided by developers who have been required to provide funding for the trail going across their development.

WHEREAS, the City of Lincoln wishes to express its support for the project and its willingness to commit to the cost of operation and maintenance of the completed facility in a safe and attractive manner for the public.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Lincoln, Nebraska:

That the City of Lincoln hereby expresses its support for the application being made by its Parks and Recreation Department to the State of Nebraska Department of Roads for financial assistance from the Transportation Enhancement Program for the purpose of constructing the project described above and known as the "Antelope Creek Trail Phase 1." Terry Genrich, Parks and Recreation Department Natural Resources and Greenways Manager, is hereby designated as the Project Liaison Officer to work with the State of Nebraska Department of Roads staff and shall be the principal contact for this project.

The City of Lincoln will not discriminate against any person on the basis of race, color, age, religion, handicap, sex, or national origin in the use of the proposed project acquired or developed pursuant to the application for financial assistance. The City of Lincoln certifies that it has the financial capabilities to operate and maintain the completed facility in a safe and attractive manner for public use

and further certifies that it will comply, where applicable, with the Americans with Disabilities Act by make the facilities accessible to the handicapped.

The City Clerk is directed to transmit a certified copy of this resolution to the Parks and Recreation Department for inclusion with the application to the State of Nebraska Department of Roads.

Introduced by Annette McRoy

Seconded by Svoboda & carried by the following vote: AYES: Camp, Cook, McRoy, Newman, Svoboda, Werner; NAYS: None; ABSENT: Friendt.

APPROVING THE APPLICATION OF THE UNIVERSITY OF NEBRASKA-LINCOLN FOR USE OF THE PUBLIC RIGHT-OF-WAY FOR THE INSTALLATION OF A 4" TELECOMMUNICATIONS CONDUIT UNDER A PORTION OF THE ABANDONED UNION PACIFIC RAILROAD RIGHT-OF-WAY AND NORTH 18TH STREET TO PROVIDE OPTIC COMMUNICATION TO THE CUSHMAN PLANT BUILDING AT 900 N. 21ST STREET - DEPUTY CLERK read the following resolution, introduced by Annette McRoy, who moved its adoption:

A-82350 WHEREAS, the University of Nebraska-Lincoln has submitted an application for a permit to use the public right-of-way under a portion of the abandoned Union Pacific Railroad and 18th Street for the purpose of installing a 4" fiber optic communications conduit to the building at 900 North 21st Street; and

WHEREAS, said applicant has submitted a letter of application and a site plan which are attached hereto, marked as Exhibit "A" and Exhibit "B" respectively, and made a part of this resolution by reference, to use the public right-of-way as above described; and

WHEREAS, said applicant has complied with all of the provisions of Chapter 14.54 of the Lincoln Municipal Code pertaining to such use.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Lincoln, Nebraska:

That the aforesaid application of the University of Nebraska-Lincoln, hereinafter referred to as Permittee, to use the public right-of-way under a portion of the abandoned Union Pacific Railroad and 18th Street as shown on Exhibit "B", for the purpose of installing telecommunication conduit be granted as a privilege only by virtue of and subject to strict compliance with the site plan, the letter of application, and the following terms and conditions, to wit:

1. That the permission herein granted is granted as a privilege only, and is subject to all the terms and conditions of Chapter 14.54 of the Lincoln Municipal Code except that the provisions relating to the posting of a continuing bond in the amount of \$5,000 and the filing of a certificate of insurance are waived since Permittee is a governmental entity.

2. That said use shall conform to the application, the site plan filed therewith, and with all applicable City ordinances and regulations.

3. The Permittee, its successors or assigns shall save and keep the City free and harmless from any and all loss or damages or claims for damages arising from or out of the use of the public way requested herein.

4. That all work done under the authority of this resolution shall be subject to the inspection and approval of the Director of Public Works of the City of Lincoln.

5. This permit may be revoked by resolution of the City Council and after giving of five days written notice to the Permittee by the City Clerk, for the following reasons: (a) failure or neglect of the Permittee to comply with the provisions of Chapter 14.54 of the Lincoln Municipal Code, or any other provisions of the Lincoln Municipal Code or the provisions of the permit; (b) failure to use the space for which the permit was granted for a continuous period of at least six months or (c) upon a determination by the City that the space for which the permit was granted is needed for public use.

Upon revocation of a permit, the Permittee shall forthwith remove or abandon the space for which the permit was granted, together with the removal of any structure at their own cost and expense and return that space to the City of Lincoln, free and clear of all structures or encroachments of any type, at no expense to the City. If the requested removal or abandonment has not been completed within six months after revocation of the permit, the City Council may cause such removal or abandonment to be so done and the cost of such work shall become a lien

against the property of the Permittee.

6. The terms and conditions of this resolution shall be binding and obligatory upon the above-named Permittee, its successors and assigns.

7. That within thirty (30) days from the adoption of this resolution, and before commencing any construction under the provisions hereof, the Permittee shall file an unqualified written acceptance of all the terms and conditions of this resolution with the City Clerk. Failure to do so will be considered a rejection hereof and all privileges and authorities hereunder granted shall automatically terminate.

Introduced by Annette McRoy

Seconded by Cook & carried by the following vote: AYES: Camp, Cook, McRoy, Newman, Svoboda, Werner; NAYS: None; ABSENT: Friendt.

APPOINTING RIEK PUOK RIEK TO THE MULTICULTURAL ADVISORY COMMITTEE TO FILL AN UNEXPIRED TERM EXPIRING SEPTEMBER 18, 2005 - DEPUTY CLERK read the following resolution, introduced by Annette McRoy, who moved its adoption:

A-82351 BE IT RESOLVED by the City Council of the City of Lincoln, Nebraska:

That the appointment of Riek Puok Riek to the Multicultural Advisory Committee to fill an unexpired term expiring September 18, 2005 is hereby approved.

Introduced by Annette McRoy

Seconded by Svoboda & carried by the following vote: AYES: Camp, Cook, McRoy, Newman, Svoboda, Werner; NAYS: None; ABSENT: Friendt.

APPOINTING RICK GARDNER, BRITTAWNI OLSON, AND SITARAM JASWAL TO THE AIR POLLUTION CONTROL ADVISORY BOARD FOR THREE-YEAR TERMS EXPIRING SEPTEMBER 1, 2006 - DEPUTY CLERK read the following resolution, introduced by Annette McRoy, who moved its adoption:

A-82352 BE IT RESOLVED by the City Council of the City of Lincoln, Nebraska:

That the appointment of Rick Gardner, Brittawni Olson, and Sitaram Jaswal to the Air Pollution Control Advisory Board for a three-year term expiring September 1, 2006 is hereby approved.

Introduced by Annette McRoy

Seconded by Svoboda & carried by the following vote: AYES: Camp, Cook, McRoy, Newman, Svoboda, Werner; NAYS: None; ABSENT: Friendt.

REAPPOINTING WAYNE HEYEN, KEVIN HORNE, AND CAROL SWIGART TO THE AIR POLLUTION CONTROL ADVISORY BOARD FOR THREE-YEAR TERMS EXPIRING SEPTEMBER 1, 2006 - DEPUTY CLERK read the following resolution, introduced by Annette McRoy, who moved its adoption:

A-82353 BE IT RESOLVED by the City Council of the City of Lincoln, Nebraska:

That the reappointment of Wayne Heyen, Kevin Horne, and Carol Swigart to the Air Pollution Control Advisory Board for three-year terms expiring September 1, 2006 is hereby approved.

Introduced by Annette McRoy

Seconded by Svoboda & carried by the following vote: AYES: Camp, Cook, McRoy, Newman, Svoboda, Werner; NAYS: None; ABSENT: Friendt.

APPROVING APPROPRIATIONS IN THE AMOUNT OF \$37,288 FROM THE OPERATION OF KENO LOTTERY FUNDS FOR VARIOUS HUMAN SERVICES - DEPUTY CLERK read the following resolution, introduced by Annette McRoy, who moved its adoption:

A-82354 WHEREAS, Resolution No. A-75378 provides that five percent of the gross proceeds realized by the City of Lincoln from the operation of a keno lottery shall be designated for such human services as may be recommended and approved by the Joint Budget Committee, City Council and Lancaster Board of Commissioners; and

WHEREAS, the Joint Budget Committee has recommended that the City Council and Lancaster County Board of Commissioners approve the designation of \$37,288 from said gross funds for the human services listed in Attachment "A" (Keno Prevention Fund Round 19) attached hereto and incorporated herein by reference.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Lincoln, Nebraska:

The designation of the \$37,288 from gross funds from the operation of keno lottery for the human services listed in Attachment "A" is hereby approved and the Mayor is authorized to enter into grant

contracts with Lancaster County, Nebraska and the respective agencies providing said human services.

Introduced by Annette McRoy

Seconded by Svoboda & carried by the following vote: AYES: Camp, Cook, McRoy, Newman, Svoboda, Werner; NAYS: None; ABSENT: Friendt.

RESOLUTION OF SUPPORT OF A LANCASTER COUNTY GRANT SUBMITTAL TO THE TRANSPORTATION ENHANCEMENT PROGRAM FOR THE CONSTRUCTION OF THE JAMAICA NORTH TRAIL LOCATED ON THE ABANDONED UNION PACIFIC RAILROAD FROM ½ MILE SOUTH OF SALTILLO ROAD TO J STREET AND THAT THE CITY WILL PROVIDE ON-GOING MAINTENANCE FOR THE TRAIL - DEPUTY CLERK read the following resolution, introduced by Annette McRoy, who moved its adoption:

A-82355 WHEREAS, the County of Lancaster intends to apply to the State of Nebraska Department of Roads for financial assistance from the Transportation Enhancement Program for the purpose of constructing the "Jamaica North Trail" a pedestrian/bicycle trail located on the abandoned Union Pacific Railroad from Wilderness Park to Calvert Street; and

WHEREAS, the total cost of the project will be \$877,940 of which the County will provide \$100,000, the Great Plains Trails Network will provide \$277,940, and the Transportation Enhancement Program grant request will be \$500,000. No City tax dollars will go into construction of this trail; and

WHEREAS, the City of Lincoln wishes to express its support for the project and its willingness to commit to the cost of operation and maintenance of the completed facility in a safe and attractive manner for the public.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Lincoln, Nebraska:

That the City of Lincoln hereby expresses its support for the application being made by Lancaster County to the State of Nebraska Department of Roads for financial assistance from the Transportation Enhancement Program for the purpose of constructing the project described above and known as the "Jamaica North Trail" and its commitment to the on-going maintenance of the trail.

The City Clerk is directed to transmit a certified copy of this resolution to the Parks & Recreation Department and the County Clerk for inclusion with the application to the State of Nebraska Department of Roads.

Introduced by Annette McRoy

Seconded by Svoboda & carried by the following vote: AYES: Camp, Cook, McRoy, Newman, Svoboda, Werner; NAYS: None; ABSENT: Friendt.

APPROVING AN AGREEMENT BETWEEN THE CITY AND THE NEBRASKA DEPT. OF ROADS FOR THE CONSTRUCTION OF THE ANTELOPE VALLEY VINE STREET BRIDGE AND ROADWAY PROJECT (PROJECT NO. STPC-5240(3)) AND FOR ELIGIBILITY OF FEDERAL FUNDS - DEPUTY CLERK read the following resolution, introduced by Annette McRoy, who moved its adoption:

A-82356 BE IT RESOLVED by the City Council of the City of Lincoln, Nebraska:

That the attached Agreement between the City of Lincoln and the State of Nebraska Department of Roads for Project No. STPC-5240(3), City Project No. 780102, for the Antelope Valley Vine Street Bridge and Roadway Project to be eligible to receive Federal Funds, in accordance with the terms and conditions contained in said Agreement, is hereby approved and the Mayor is authorized to execute the same on behalf of the City of Lincoln.

The City Clerk is directed to return the executed copies of the Agreement to the Department of Public Works, for transmittal and execution by the State Department of Roads.

Introduced by Annette McRoy

Seconded by Svoboda & carried by the following vote: AYES: Camp, Cook, McRoy, Newman, Svoboda, Werner; NAYS: None; ABSENT: Friendt.

ACCEPTING THE REPORT OF NEW AND PENDING CLAIMS AGAINST THE CITY AND APPROVING DISPOSITION OF CLAIMS SET FORTH THEREIN FOR THE PERIOD OF SEPTEMBER 1 TO 15, 2003 - DEPUTY CLERK read the following resolution, introduced by Annette McRoy, who moved its adoption:

A-82357 BE IT RESOLVED by the City Council of the City of Lincoln, Nebraska:

That the claims listed in the attached report, marked as Exhibit

"A", dated September 16, 2003, of various new and pending tort claims filed against the City of Lincoln with the Office of the City Attorney or the Office of the City Clerk, as well as claims which have been disposed of, are hereby received as required by Neb. Rev. Stat. § 13-905 (Reissue 1997). The dispositions of claims by the Office of the City Attorney, as shown by the attached report, are hereby approved:

<u>DENIED</u>		<u>ALLOWED OR SETTLED</u>	
Corey Tomason	\$ 2,116.30	Sheridan Lutheran Church	\$ 157.33
Russell Cochennet	50,000.00	Sky Park Apartments	289.00
Dennis Donner	694.10	Stephanie Kessler	2,000.00
		Heidi Meinen	3,229.20
		Brian Harman	5,000.00

The City Attorney is hereby directed to mail to the various claimants listed herein a copy of this resolution which shows the final disposition of their claim.

Introduced by Annette McRoy

Seconded by Cook & carried by the following vote: AYES: Camp, Cook, McRoy, Newman, Svoboda, Werner; NAYS: None; ABSENT: Friendt.

ORDERING ORNAMENTAL LIGHTING DISTRICT NO. 286 CONSTRUCTED, BEING SOUTH 20TH STREET TO SOUTH 27TH STREET, VAN DORN STREET TO HIGH STREET (9/22/03 - P.H. 9/29/03 and 10/6/03 w/possible Action 10/6/03)

APPROVING A CONTRACT FOR SERVICES BETWEEN THE CITY AND CORNHUSKER PLACE FOR A THREE-YEAR TERM TO PROVIDE SERVICES OF CHEMICAL TESTING OF BREATH SAMPLES - DEPUTY CLERK read the following resolution, introduced by Annette McRoy, who moved its adoption:

A-82358 WHEREAS, the City of Lincoln is desirous of entering into a contract with Cornhusker Place, Inc. to provide services of chemical testing of breath samples for those individuals with alcohol and drug abuse problems.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Lincoln, Nebraska:

That the Contract for Services between the City of Lincoln, Nebraska and Cornhusker Place, Inc., a copy of which is attached hereto, marked as Attachment "A", and made a part hereof by reference, for a three-year period, under which Cornhusker Place, Inc. will provide services of chemical testing of breath samples for those individuals with alcohol and drug abuse problems, upon the terms and conditions set forth in said agreement, is hereby accepted and approved, and the Mayor is authorized to execute said Agreement on behalf of the City.

The City Clerk is hereby directed to transmit fully executed copies of said Contract and Agreement to the Director of Cornhusker Place at 721 "K" Street, Lincoln, Nebraska 68508.

Introduced by Annette McRoy

Seconded by Svoboda & carried by the following vote: AYES: Camp, Cook, McRoy, Newman, Svoboda, Werner; NAYS: None; ABSENT: Friendt.

APPROVING A CONTRACT FOR SERVICES BETWEEN THE CITY AND CORNHUSKER PLACE FOR A THREE-YEAR TERM TO PROVIDE PROTECTIVE CUSTODY SERVICES - DEPUTY CLERK read the following resolution, introduced by Annette McRoy, who moved its adoption:

A-82359 WHEREAS, the City of Lincoln is desirous of entering into a contract with Cornhusker Place, Inc. for protective custody services for those individuals with alcohol and drug abuse problems.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Lincoln, Nebraska:

That the Contract for Services between the City of Lincoln, Nebraska and Cornhusker Place, Inc., a copy of which is attached hereto, marked as Attachment "A", and made a part hereof by reference, for a three-year period, under which Cornhusker Place, Inc. will provide protective custody services for those individuals with alcohol and drug abuse problems, upon the terms and conditions set forth in said Agreement, is hereby accepted and approved, and the Mayor is authorized to execute said Agreement on behalf of the City.

The City Clerk is hereby directed to transmit fully executed copies of said Contract and Agreement to the Director of Cornhusker Place at 721 "K" Street, Lincoln, Nebraska 68508.

Introduced by Annette McRoy

Seconded by Svoboda & carried by the following vote: AYES: Camp, Cook, McRoy, Newman, Svoboda, Werner; NAYS: None; ABSENT: Friendt.

SETTING THE HEARING DATE OF MONDAY, OCTOBER 13, 2003 @ 1:30 P.M. FOR THE MGR. APP. OF JEFF E. ERKS FOR GATEWAY BOWL CORP. DBA GATEWAY BOWL, LOCATED AT 333 NORTH COTNER BLVD. - CLERK read the following resolution, introduced by Annette McRoy, who moved its adoption:

A-82360 BE IT RESOLVED by the City Council, of the City of Lincoln, that a hearing date is hereby set for Mon., October 13, 2003 at 1:30 p.m. or as soon thereafter as possible in the City Council Chambers, County-City Building, 555 S. 10th St., Lincoln, NE, for the purpose of considering the Manager Application of Jeff E. Erks for Gateway Bowl Corp. dba Gateway Bowl, located at 333 North Cotner Blvd.

If the Police Dept. is unable to complete the investigation by said time, a new hearing date will be set.

Introduced by Annette McRoy

Seconded by Svoboda & carried by the following vote: AYES: Camp, Cook, McRoy, Newman, Svoboda, Werner; NAYS: None; ABSENT: Friendt.

SETTING THE HEARING DATE OF MONDAY, OCTOBER 13, 2003 @ 1:30 P.M. FOR THE APP. OF SALEM FB, LLC DBA FAST BREAK NORTHWOODS FOR A CLASS B LIQUOR LICENSE, LOCATED AT 8350 NORTHWOODS DRIVE - CLERK read the following resolution, introduced by Annette McRoy, who moved its adoption:

A-82361 BE IT RESOLVED by the City Council, of the City of Lincoln, that a hearing date is hereby set for Mon., October 13, 2003 at 1:30 p.m. or as soon thereafter as possible in the City Council Chambers, County-City Building, 555 S. 10th Street, Lincoln, NE, for the purpose of considering the Application of Salem FB LLC dba Fast Break Northwoods for a Class B liquor license located at 8350 Northwoods Drive.

If the Police Dept. is unable to complete the investigation by said time, a new hearing date will be set.

Introduced by Annette McRoy

Seconded by Svoboda & carried by the following vote: AYES: Camp, Cook, McRoy, Newman, Svoboda, Werner; NAYS: None; ABSENT: Friendt.

APPROVING A FOUR-YEAR CONTRACT BETWEEN THE CITY AND CAPITAL TOWING INC. FOR VEHICULAR TOWING AND STORAGE. (In connection w/03-147) - PRIOR to reading:

WERNER Moved to amend Bill No. 03R-249 in the following manner:

1. On page 1, line 8, strike the words "Attachment A" and insert the following:
Attachments "A" and "B",

Seconded by Cook & carried by the following vote: AYES: Camp, Cook, McRoy, Newman, Werner; NAYS: Svoboda; ABSENT: Friendt.

CLERK Read the following resolution, introduced by Glenn Friendt, (Mr. Friendt being absent), Ken Svoboda who moved its adoption:

A-82364 WHEREAS, the City of Lincoln desires to enter into a 4-year contract with Capital Towing Inc. for vehicular towing and storage services; and

WHEREAS, the City of Lincoln and Capital Towing Inc. are agreeable to entering into a four-year contract for such purposes.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Lincoln, Nebraska:

That the four-year contract between Capital Towing Inc. and the City of Lincoln, Nebraska, a copy of which contract is attached hereto, marked as ~~Attachment "A"~~ Attachments "A" and "B" and made a part hereof by reference, is hereby approved and the Mayor is authorized to execute the same on behalf of the City.

The City Clerk is directed to return one fully executed copy of said contract to Capital Towing Inc. and one copy of said contract to the Lincoln Police Department.

Introduced by Glenn Friendt

Seconded by Svoboda & carried by the following vote: AYES: Camp, Cook, Newman, Svoboda, Werner; NAYS: McRoy; ABSENT: Friendt.

For the record, Councilman Svoboda made the following comments: Several of us Council members that went out and did a walk through of Capital Towing last week. We went in unannounced and were greeted just like everyone else would be, can't pass through a certain area without permission. We were taken into the back and we were shown the surplus room, the evidence room, the process that they use to lock up these areas by the staff. We were not able to meet immediately with Mr. Schwartztrauber because he was over at the Police Dept. garage having several vehicles inspected. This was an order that was probably

instigated by some of the discussion that we had, but that Chief Casady ordered or asked them and they complied. What the Police Dept. found were very minor infractions, difficulties with some of their equipment on some of their vehicles probably very much unlike 75% of the vehicles that are driving the city streets today, very small minor infractions that they immediately took care of. What I did notice when we were walking around and the other council members that did the walk through with me, can certainly speak for themselves, but what I noticed in walking through the property, was the fact that there was nothing hidden. This is an operation that operates 24 hours a day, seven days a week. They see the sometimes bizarre, the horrific, they see sometimes people at their worst and not something that I would want to do is going out and confront people as you are towing their vehicle away and you can't drop it at that point. But what we did find when we were walking through a number of the cars had their windows wide open. These are cars that were left on our city streets, that had personal belongings on the front and back seats, windows wide open, in an area that was then towed away because they were improperly parked. And I thought if the people that left personal possessions in their car on the city streets, unlocked, windows opened, didn't care enough for their personal possessions, why should the tow operator then do a full investigation of an inspection and an inventory of everything that is in those vehicles. Speaking of that, in walking through and looking at the tow lots, I cannot imagine our police officers for that matter, doing an inspection and an inventory of the items that were in those vehicles, because it was amazing, the items that we found in some of the vehicles, some that were involved in accidents, some that were involved in city tows and it was amazing what we did find in those vehicles. An inventory would be very time consuming, although as Chief Casady suggested last week there is room for improvement in that and I think somewhere in a policy making mode the Chief could come up with what items to inventory. I would hate to think that he would have to inventory in the back of a crashed pickup, the brake shoes that I saw back in the back side of it, because who cares, they are no value, that is why they are in the back seat, they were used, thrown away and discarded in the back. One of the things that I also noticed in walking through this property was the fact that these tow operators have the Schwartztrauber's as any contract would do, whether it be Capital or any, hire the best people they can. We all do that. I don't think there is probably a business in Lincoln that isn't frustrated by the potential and sometimes the evidence stealing by an employee, whether it be services of the company and/or personal property from a customer. The threat is there, the possibility is there, when you are open 24 hours a day, they do the best they can. The possibility is there that there could be theft. We had no evidence of it. But what I did notice, was that there is also a possibility not of just the tow drivers and their staff and personnel to be able to have the possibility of stealing something, but when an individual comes to retrieve something from their crashed vehicle, or school books or whatever might be of immediate personal possession that they might have a vehicle that was towed, that they immediately have to have, those individuals are shown where the car is and at that point they don't have the staffing, nor do I know that I want to require them to have the staffing, to stand there and watch as that individual retrieves the items out of that vehicle, well-knowing that right next to that vehicle there is more than likely as we saw several times, the windows open and several hundred if not thousand dollar amplifiers setting on the seat of a crashed vehicle right next to a vehicle that somebody else might be retrieving school books out of. The theft possibility is endless and it doesn't stop with just those tow truck drivers and or their staff. As to the allegations of the Purchasing Dept. and it's director, I am appalled by the accusations and allegations that were made. We put our trust in our city department heads and I know they do the best they can. If these allegations were being leveled of our city staff and of the Purchasing Dept. by numerous individuals and numerous contractors throughout the city, that would show cause for us to instigate and investigation in this. In fact, the only thing that we are ever seeing, the only thing that we have heard in at least the two years that I have been here is just from the towing contractors of allegations of misuse of power. So to get personal with the fact that an employee may possibly babysat for an individual years ago, I think is really leveling it a little too far and I am really sorry that that has had to happen.

Councilwoman Newman made the following comments for the record: Councilman Camp and Councilman Svoboda and I went out on Thursday and I

would reiterate everything that he has said so far. The other thing that people who have been kind of somewhat tuning in on this may not know, is that Chief Casady and his Police staff have been out there trying to investigate a lot of these allegations and has basically come up with absolutely no proof of any wrongdoing. So as far as I am concerned, this contract is written such that if there is a problem with something that is going on, it can be terminated immediately and when we actually have proof of something like that, I will have no doubt that it will be terminated immediately. What is not stated in the contract and I checked this with our City Attorney today, is there is implied authority based on State Statutes as to what the standard procedure and policy should be and personally I would prefer that explicit rather than implicit, but just for the record it is there and therefore we have the power to terminate the contract if need be. So I am happy to move forward with this.

For the record, Councilwoman McRoy made the following comments: Well I didn't go out to the tow lot, I have been there before on numerous occasions, not in recent years, but this is the second time this towing contract has been before me as a council member. And this is the second time it has brought the best in competition, which I say that tongue in cheek, that I think it is the very worst in the competition for the city contract. Because we have had all types of accusations, lies, more lies leveled against the towing companies left and right, the last two or three weeks. And we have even brought private citizens in there to make allegations and that is unfortunate. I don't know the Schwartztraubers or Capital Towing all that well, but I am sure they are fine business people. I guess my concern is that this is the second time that this towing contract has been controversial before the city council and I don't for a minute believe that 90% of the allegations are true. I believe Chief Casady and his team have done yeoman's work in this past week, tracking down what they could that was any type of evidence that could track on these type of complaints and things that were e-mailed back and forth. I have been following the e-mail wars on the towing contract a lot last week and I guess I am very frustrated as Councilman Cook was last week about this contract in general. You know I think we should run it kind of like how we do the landfill. The landfill is owned by the city, is city land, those are city employees who run the gate, the gatehouse, the garbage refuse is brought in by private contractors. I think the towing lot should be ran the same way. It may cost money in the beginning to get it going like that, but I think we cut down definitely on the accusations, controversy and there would be more money in the city coffers. I am not sure which department would run it, the Police or Public Works, but I think something similar to the landfill operation we have. In the four and one-half years that I have been on counsel, I have not had one complaint against a refuse hauler, about improprieties, in fact they invite us to dinner every year, as we well know, out in Havelock, because we get along so fine with the public/private enterprise type situation, but we have the land, we run the operation, they bring in the product and they are making their money. So on that basis, I believe we should make a switch. I know Chief Casady told me last week we have done something like this similar, the details need worked out. I am going to be opposed to this contract because it is so controversial. I think we could do a better job all the way around. So with that, this is not anything against Capital Towing or its owners or principals or it's employees, it is more of a principal for me that I think the city could do something different with this towing contract and it may bring in revenue, without hurting the private sector.

Councilman Cook made the following comments for the record: I really appreciate the extra effort some of my colleagues put in, in going out to the towing lot and looking into the operation there. I have to say that if anyone wants an example of how not to run a smear campaign, this is it. That the crazier and more varied the allegations became, the less believable any of them were. I want to agree with Councilman Svoboda about the comments made about our city staff. I think Vince Mejer, our purchasing agent, has done a proper and professional job in all of this. I want to thank Chief Casady for following up on all of these things, no matter how unbelievable some of them might be or how little evidence we had, Chief Casady made the effort this last week and devoted the staff time to looking into every last claim. And I will just quote one thing from one of his many memos to us here. "The allegations of various kinds of malfeasance, collusion, fraud, bid-rigging, theft, forgery, babysitting scandals and

so forth involving the contractor are unsubstantiated at this time." I am going to support this contract and I believe we should move forward.

Councilman Werner offered the following comments:

I will say my piece now and not on the next ordinance that we have coming. And I will be making an amendment to that, that I think will be helpful and I will talk about that in a minute, but I too, agree with my colleagues in that Mr. Mejer and Chief Casady have done an outstanding job and I think they have covered all of the bases. I don't know where else we can go with this, but on their recommendation, so I will support this as well.

Council Chair Camp added the following comments:

I think that we did have some testimony that was unfortunately wasn't factual as it should have been and perhaps this will help serve as a lesson on future issues. The more factual those who testify can be, the more beneficial they are to their particular position. I would encourage that. At the same time I appreciate the time and effort a number of individuals put forth to come and testify, I know there were some who concerned about safety issues and so forth and I think we appreciate that. Again, we just really need to deal with facts as much as we possibly can and I think that is the most persuasive.

PETITIONS & COMMUNICATIONS

THE FOLLOWING WERE REFERRED TO THE PLANNING DEPT.:

CHANGE OF ZONE NO. 3421 - APP. OF CHAMELEON & CO. FOR A CHANGE OF ZONE FROM H-3 TO R-3 ON PROPERTY LOCATED AT WEST CHARLESTON AND 1ST STREETS.
CHANGE OF ZONE NO. 3422 - APP. OF KAREN BROUWER FOR A CHANGE OF ZONE FROM AG TO AGR ON PROPERTY LOCATED AT SW 33RD AND W. DENTON RD.
SPECIAL PERMIT NO. 1928A - APP. OF ROSS ENGINEERING AMENDING THE CUP FOR STERLING UNIVERSITY TO ADD AN ADDITIONAL 171 APARTMENT UNITS AND A CLUBHOUSE TO PROPERTY LOCATED AT SW 1ST STREET AND WEST CHARLESTON.
SPECIAL PERMIT NO. 2038 - APP. OF BRITT B. BAER FOR A SALVAGE YARD ON PROPERTY LOCATED AT 1647 SOUTH 3RD STREET.
SPECIAL PERMIT NO. 2039 - APP. OF MESAL ENTERPRISES, L.L.C. TO SELL ALCOHOLIC BEVERAGES AT PROPERTY LOCATED AT 5240 S. 48TH STREET.

REPORTS OF CITY OFFICERS

CLERK'S LETTER AND MAYOR'S APPROVAL OF ORDINANCES AND RESOLUTIONS PASSED BY COUNCIL ON SEPTEMBER 15, 2003 - CLERK presented said report which was placed on file in the Office of the City Clerk.

APPROVING THE DISTRIBUTION OF FUNDS REPRESENTING INTEREST EARNING ON SHORT-TERM INVESTMENTS OF IDLE FUNDS DURING THE MONTH ENDED AUGUST 31, 2003 - CLERK read the following resolution, introduced by Annette McRoy, who moved its adoption:

A-82362 BE IT HEREBY RESOLVED BY THE CITY COUNCIL of the City of Lincoln, Nebraska:

That the attached list of investments be confirmed and approved, and the City Treasurer is hereby directed to hold said investments until maturity unless otherwise directed by the City Council.

Introduced by Annette McRoy

Seconded by Svoboda & carried by the following vote: AYES: Camp, Cook, McRoy, Newman, Svoboda, Werner; NAYS: None; ABSENT: Friendt.

INVESTMENT OF FUNDS FOR THE WEEK OF SEPTEMBER 15 THROUGH SEPTEMBER 26, 2003. CLERK read the following resolution, introduced by Annette McRoy, who moved its adoption:

A-82363 BE IT RESOLVED BY THE CITY COUNCIL of the City of Lincoln, Nebraska:

That the attached list of investments be confirmed and approved, and the City Treasurer is hereby directed to hold said investments until maturity unless otherwise directed by the City Council.

Introduced by Annette McRoy

Seconded by Svoboda & carried by the following vote: AYES: Camp, Cook, McRoy, Newman, Svoboda, Werner; NAYS: None; ABSENT: Friendt.

REPORT OF CITY TREASURER OF TELECOMMUNICATIONS TAX FOR THE MONTH OF AUGUST, 2003: NEXTEL WEST CORP.; NOSVA LIMITED PARTNERSHIP; LDMI TELECOMMUNICATIONS, INC.; WORLDXCHANGE CORP.; ZONE TELECOM, INC.; WWC LICENSE LLC; ATT WIRELESS PCS LLC; LIGHTYEAR COMMUNICATIONS, INC.; NOS COMMUNICATIONS, INC.; GLOBALCOM, INC.; ATS MOBILE TELEPHONE CO., INC.; BIG PLANET, INC.; GLYPHICS COMMUNICATIONS, INC.; ASSOCIATION ADMINISTRATORS, INC.; TRI-M COMMUNICATIONS, INC. AND AFFINITY NETWORK, INC. - CLERK presented said report which was placed on file in the Office of the City Clerk. (20)

ORDINANCES - 1ST READING

CHANGE OF ZONE 3418 - APPLICATION OF KENNETH AND ROSEMARY FRANKS FOR A CHANGE OF ZONE FROM R-4 RESIDENTIAL DISTRICT TO H-2 HIGHWAY BUSINESS DISTRICT ON PROPERTY GENERALLY LOCATED EAST OF N. 48TH STREET ON ORCHARD STREET - PRIOR to reading:

COOK Moved to have p.h. delayed to 10/27/03.

Seconded by Werner & carried by the following vote: AYES: Camp, Cook, McRoy, Newman, Svoboda, Werner; NAYS: None; ABSENT: Friendt.

CLERK Read the following ordinance, introduced by Annette McRoy, Change of Zone 3418 - application of Kenneth and Rosemary Franks for a Change of Zone from R-4 Residential District to H-2 Highway Business District on property generally located east of N. 48th Street on Orchard Street, the first time.

ORDINANCES - 3RD READING

DECLARING THE FORMER UNION PACIFIC RIGHT-OF-WAY BETWEEN 30TH ST. AND 33RD ST., CONSISTING OF APPROX. 1.5 ACRES, AS SURPLUS PROPERTY AND AUTHORIZING THE EXCHANGE THEREOF - CLERK read an ordinance, introduced by Jonathan Cook, declaring approximately 1.5 acres of City-owned property generally located between 30th and 33rd Streets north of Peter Pan Park as surplus and authorizing the conveyance thereof to Rose Investments, Inc., the third time.

COOK Moved to pass the ordinance as read.

Seconded by Svoboda & carried by the following vote: AYES: Camp, Cook, McRoy, Newman, Svoboda, Werner; NAYS: None; ABSENT: Friendt.

The ordinance being numbered #18249 is recorded in Ordinance Book No.259, Page CHANGE OF ZONE 3416 - APP. OF WITHERBEE NEIGHBORHOOD ASSOC. FOR A CHANGE FROM R-4 RESIDENTIAL TO R-2 RESIDENTIAL ON PROPERTY GENERALLY LOCATED BETWEEN

THE WEST SIDE OF S. 37TH ST. AND THE EAST SIDE OF S. 42ND ST., FROM J ST. TO RANDOLPH ST., CONSISTING OF APPROX. 12 BLOCKS - CLERK read an ordinance, introduced by Jonathan Cook, amending the Lincoln Zoning District Maps attached to and made a part of Title 27 of the Lincoln Municipal Code, as provided by Section 27.05.020 of the Lincoln Municipal Code, by changing the boundaries of the districts established and shown thereon, the third time.

COOK Moved to pass the ordinance as read.
Seconded by Newman & carried by the following vote: AYES: Camp, Cook, McRoy, Newman, Svoboda, Werner; NAYS: None; ABSENT: Friendt.
The ordinance being numbered **#18250** is recorded in Ordinance Book No.259, Page

APPROVING A FOUR-YEAR LEASE AGREEMENT BETWEEN THE CITY AND CAPITAL TOWING INC. FOR A VEHICLE IMPOUND LOT LOCATED AT 101 CHARLESTON ST. (IN CONNECTION W/03R-249)- CLERK read an ordinance, introduced by Jonathan Cook, accepting and approving a Lease Agreement between the City of Lincoln and Capital Towing, Inc. for the lease of City owned property for use as an impound lot for towed vehicles, the third time.

COOK Moved to pass the ordinance as read.
Seconded by Svoboda & carried by the following vote: AYES: Camp, Cook, Newman, Svoboda, Werner; NAYS: McRoy; ABSENT: Friendt.
The ordinance being numbered **#18251** is recorded in Ordinance Book No.259, Page

MISCELLANEOUS BUSINESS

PENDING -

SVOBODA Moved to extend the Pending List to October 6, 2003.
Seconded by Cook & carried by the following vote: AYES: Camp, Cook, McRoy, Newman, Svoboda, Werner; NAYS: None; ABSENT: Friendt.

UPCOMING RESOLUTIONS -

SVOBODA Moved to approve the resolutions to have Public Hearing on October 6, 2003.
Seconded by Cook & carried by the following vote: AYES: Camp, Cook, McRoy, Newman, Svoboda, Werner; NAYS: None; ABSENT: Friendt.

ADJOURNMENT 8:18 P.M.

SVOBODA Moved to adjourn the City Council meeting of September 29, 2003.
Seconded by Cook & carried by the following vote: AYES: Camp, Cook, McRoy, Newman, Svoboda, Werner; NAYS: None; ABSENT: Friendt.
So ordered.

Teresa J. Meier, Deputy City Clerk

Glenna Graupmann, Senior Office Assistant

REGULAR MEETING
September 29, 2003
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